



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,254	07/09/2001	Sadik Tuzun	1193-PCTUS00	4185
7590	04/30/2004			
EXAMINER				
PRYOR, ALTON NATHANIEL				
ART UNIT		PAPER NUMBER		
1616				

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/807,254

**Applicant(s)**

TUZUN ET AL.

**Examiner**

Alton N. Pryor

**Art Unit**

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 24-39, 42, 44-48, 50, 70-76, 78-86, 91, 93, 96-99 and 117 is/are allowed.
- 6) ☐ Claim(s) 6-8, 89, 90, 114, 122 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims pending in the application are 6-8,24-39,42,44-48,50,70-76,78-86,89-91,93,96-99,114,117 and 122.

### **DETAILED ACTION**

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 90,114 are rejected under 35 U.S.C. 102(b) as being anticipated by ES 2100821; 6/16/97 on record. ES '821 teaches a composition comprising 88.92% water, 10% self-emulsifier oil/ water base (emulsifying agent), 0.01% or 100 ppm cinnamon oil (contains cinnamic aldehyde) and 0.01% of dill (carrot vegetable oil). Both prior art and instant application teach the combination of the same class of chemicals; therefore, it is inherent that an emulsion would have formed upon mixing of the chemicals at the time of the invention in ES '821.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8,90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hengelmolen et al (J. Chem. Soc., Faraday Transactions, 1997, vol. 93 no. 20 pp.

Art Unit: 1616

3683-3688). Hengelmolen teaches a water-in-oil emulsion comprising anethole. See abstract. Hengelmolen does not teach the composition comprising 1 – 1000 ppm anethole. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of anethole. One would have been motivated to do this in order to make the most effective composition.

Claim 122 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bourrel et al (Rivista Italiana EPPOS, 1995, vol. 6 no. 16 pp. 3-12. Bourrel teaches essential oils in contact with bacteria. See abstract. Bourrel does not teach the composition comprising 1 – 1000 ppm anethole. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of anethole. One would have been motivated to do this in order to make the most effective composition for controlling bacteria.

Claims 89,90,114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selga et al (US 5998335; 12/7/99). Selga teaches a herbicidal composition existing as an emulsion comprising an essential oil, emulsifying agent and water. See abstract, column 3 lines 5-11. Selga does not teach the composition comprising 1 – 1000 ppm essential oil. It would have been obvious to one having ordinary skill in the art to determine the optimum amount of essential oil. One would have been motivated to do this in order to make the most effective composition for controlling weeds.

***Allowable Subject Matter***


Claims 24-39,42,44-48,50,70-76,78-86,91,93,96-99,117 are allowable. The prior art does not teach or suggest the instant method comprising the application to plants or derivation of essential oil from Labiate and Umbellifera.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ALTON N. PRYOR  
PRIMARY EXAMINER  
Alton Pryor  
Primary Examiner  
AU 1616